

SENATE RECORD VOTE ANALYSIS

105th Congress
1st Session

Vote No. 131

June 26, 1997, 9:57 am
Page S-6396 Temp. Record

TAXPAYER RELIEF ACT/Hardrock Mining Depletion Allowance

SUBJECT: Taxpayer Relief Act of 1997 . . . S. 949. Gregg motion to waive the Budget Act for the consideration of the Bumpers amendment No. 518.

ACTION: MOTION REJECTED, 36-63

SYNOPSIS: As reported, S. 949, the Taxpayer Relief Act of 1997, will provide net tax relief of \$76.8 billion over 5 years and \$238 billion over 10 years. The cost will be more than offset by the economic dividend (\$355 billion over 10 years) that will result from balancing the budget in fiscal year (FY) 2002. This bill will enact the largest tax cut since 1981 and the first tax cut since 1986. It will give cradle-to-grave tax relief to Americans: it will give a \$500-per-child tax credit, education tax relief, savings and investment tax relief, retirement tax relief, and estate tax relief. Over the first 5 years, approximately three-fourths of the benefits will go to Americans earning \$75,000 or less. It will eliminate a third of the increased tax burden imposed by the 1993 Clinton tax hike, which was the largest tax hike in history.

The Bumpers amendment would eliminate the percentage depletion allowance for mines on federally owned lands.

Debate on a first-degree amendment to a reconciliation bill is limited to 2 hours. Debate was further limited by unanimous consent. After debate, Senator Murkowski raised the point of order that the amendment violated section 305(b)(2) of the Budget Act. Senator Gregg then moved to waive the Budget Act for the consideration of the amendment. Generally, those favoring the motion to waive favored the amendment; those opposing the motion to waive opposed the amendment.

NOTE: A three-fifths majority (60) vote is required to waive the Budget Act. Following the failure of the motion to waive, the point of order was upheld and the amendment thus fell.

Those favoring the motion to waive contended:

The most outrageous corporate welfare in the United States is the practice of selling, for just a few dollars an acre, public lands

(See other side)

YEAS (36)			NAYS (63)			NOT VOTING (1)	
Republicans (7 or 13%)	Democrats (29 or 64%)		Republicans (47 or 87%)	Democrats (16 or 36%)		Republicans (1)	Democrats (0)
Chafee	Akaka	Lautenberg	Abraham	Hutchinson	Baucus	Roberts- ²	
Coats	Biden	Leahy	Allard	Hutchison	Bingaman		
Collins	Boxer	Levin	Ashcroft	Inhofe	Breaux		
Gregg	Bumpers	Lieberman	Bennett	Kempthorne	Bryan		
Jeffords	Dodd	Mikulski	Bond	Kyl	Byrd		
Smith, Bob	Durbin	Moseley-Braun	Brownback	Lott	Cleland		
Snowe	Feingold	Murray	Burns	Lugar	Conrad		
	Feinstein	Reed	Campbell	Mack	Daschle		
	Glenn	Robb	Cochran	McCain	Dorgan		
	Graham	Rockefeller	Coverdell	McConnell	Ford		
	Harkin	Sarbanes	Craig	Murkowski	Hollings		
	Kennedy	Torricelli	D'Amato	Nickles	Inouye		
	Kerrey	Wellstone	DeWine	Roth	Johnson		
	Kerry	Wyden	Domenici	Santorum	Landrieu		
	Kohl		Enzi	Sessions	Moynihan		
			Faircloth	Shelby	Reid		
			Frist	Smith, Gordon			
			Gorton	Specter			
			Gramm	Stevens			
			Grams	Thomas			
			Grassley	Thompson			
			Hagel	Thurmond			
			Hatch	Warner			
			Helms				
						EXPLANATION OF ABSENCE:	
						1—Official Business	
						2—Necessarily Absent	
						3—Illness	
						4—Other	
						SYMBOLS:	
						AY—Announced Yea	
						AN—Announced Nay	
						PY—Paired Yea	
						PN—Paired Nay	

that have tens of billions of dollars worth of precious metals on them. Often, the rich corporations that are buying the land are foreign companies that export the profits. We are incredibly frustrated that so many of our colleagues are not offended by this practice. We know, for instance, of a Canadian company that recently paid just \$9,000 for 1,800 acres of land that had \$11 billion worth of assets beneath the surface. Every American taxpayer should be outraged that in these difficult budgetary times, public lands worth billions of dollars, which belong to all Americans, are being sold to foreigners for next to nothing. They are allowed to do so because of a mining law that was passed last century that was intended to encourage the settlement of the West. That law, which has never been updated, allows anyone to patent Federal lands for \$2.50 to \$5 per acre, even if they have billions of dollars worth of precious metals. As a result of that law, the West is littered with hundreds of abandoned mines, many of which are so polluted they are on the Superfund list and are going to cost the taxpayers tens of billions of dollars to clean up.

As if this practice were not outrageous enough, rich corporations are given tax deductions as their mines run out of gold and other precious metals. The principle is the same as is used for a business in depreciation; as a building ages, it loses its value, and a company is allowed to write off the value that is lost. For resource companies that actually buy the resources that they extract, such as oil companies, depreciation also makes sense. The value of an oil field that was purchased at its fair value rather than for \$5 per acre can and should also be depreciated. Why, though, should a company that has been given billions of dollars of minerals for free from American taxpayers get to take tax deductions as it sells those minerals? Just because it has less of the gift to sell, it should get another gift of a tax deduction?

The depletion allowance for hardrock mining on public lands is an outrage on top of the outrage that rich corporations are being given these precious metals in the first place. The Bumpers amendment would not stop the metals from being given away, but at least it would stop the depletion allowance. We urge our colleagues to waive the Budget Act for its consideration.

Those opposing the motion to waive contended:

Our dear colleague from Arkansas must truly be a selfless individual. For the past 9 years, he has loudly proclaimed that hundreds of billions of dollars worth of gold, silver, and other precious metals are being given away literally for free by the Federal Government to anyone willing to pay a few dollars an acre to patent lands in the West. Amazingly, though he knew he could get all of this money, as he puts it, just by driving a couple of stakes into the ground to stake a claim, he has not yet collected an ounce of gold or even a penny's worth of copper. Even more amazingly, all other Americans are just as high-minded as our colleague, because they have not run out and picked up all of this free metal lying around the West either. Hundreds of billions of dollars worth of precious metals remain buried on public lands in the West and Alaska. How could this be possible if our colleague's description of patenting land is accurate? Is it really true that only a few big corporations are willing to take free gold from the Government?

Obviously our colleague's description is wildly inaccurate. It fixates on one infinitesimally tiny part of the cost of opening and operating a mine on public lands, and suggests that that cost is the only cost involved in mining, and is the only return that the Government gets for the minerals mined. We have heard this ridiculous analysis for many years, and we have countered it for many years, and we will continue to do so anytime it is presented. In this case, our colleague has added a new twist--he has said that we should not allow companies that mine on public lands to take a depletion allowance because they have been given the minerals for free. This twist displays an ignorance of the purpose of the depletion allowance as well as being based on the false claim that companies are being "given" billions of dollars worth of precious metals.

All those companies are "given" when they get a patent is the right to spend hundreds of millions of dollars to extract minerals they have already spent hundreds of thousands of dollars proving were present, and then once they extract those minerals they get the "right" to pay a higher tax rate on their profits, should they be lucky enough to have any, than just about any other industry in America. Hardrock mining is an extremely risky and extremely capital-intensive business, and it is an internationally competitive business.

In the United States, before the Federal Government will issue a mining patent, it requires proof that the land can be commercially mined. On average, the cost of providing such proof is more than \$200,000, and, because some patent applications involve as many as 500 claims that must be processed, the costs just for getting the patent can reach \$20 million or more. Additionally, environmental impact statements must be approved (examining possible effects on air quality, water quality, solid waste, fisheries, wildlife, plant habitat, protection of monuments, and archeological concerns) and reclamation plans must be developed. In one instance, mining was not allowed to go forward until the mining company agreed to transplant a forest, tree by tree, before digging, and after the minerals were extracted, to fill the hole and move the trees back. Our colleagues have implied that current mining operations pollute the environment, as they did 50 years ago when few environmental safeguards existed, but they are well aware of the stringent laws that now apply to mining on Federal lands. Additionally, to get through all the Federal paperwork currently takes 3 years to 5 years. In both time and money, it is very difficult to open a mine on Federal lands. Saying that all that is involved is paying \$2.50 to \$5 per acre for a patent is as ridiculous as saying that all the cost involved in buying a car is paying for the registration.

Another argument our colleagues have repeatedly made is that companies pay a lot more to mine on State and private lands than they do Federal lands. We could go through detailed explanations of the different costs involved to explain the weakness of this

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argument, but a more direct approach is to point out that under a free market system corporations are going to go where they can expect the greatest returns. If mining on Federal lands were the deal our colleagues claimed, then no one would ever bother with mining on State and local lands, especially considering that most of the West is owned by the Federal Government and most of the minerals are on its land.

Once a mine is opened, the minerals must be extracted. No one is "given" billions of dollars in gold. Assume for example, a mine is opened on public lands with estimated deposits of \$10 billion in gold. That gold ore scattered deep beneath the earth in millions of tons of rock is not worth \$10 billion--it is worth \$10 billion minus the cost of extracting and processing it. Extraction costs vary based on geological circumstances and government costs. (Labor costs do not play a very large factor because the business is so capital intensive. Consequently, though this industry is very competitive internationally, mining wage rates have not fallen in America; in fact, the 120,000 Americans still employed in this declining industry make an average wage of \$46,000, not counting benefits). Right now the price of gold has fallen to \$350 per ounce, and 5 of the 22 largest gold mines in the United States have cash operating costs of \$347.30 per ounce or more. At a profit margin of less than \$3 per ounce, the net gain that the company in our example that was "given" \$10 billion in ore would be around \$75 million. We note that cash costs do not include capital costs--when those are factored in, a company operating on the above profit margin actually is losing money. It typically costs \$400 million to develop a mine, and it sometimes costs more than \$1 billion.

World-wide, the average cash cost of mining gold is \$257 per ounce, and the capital cost is \$58 per ounce. In some countries, the costs are much lower--for instance, the Busang gold deposit in Indonesia could have a cash cost of less than \$100 per ounce. One of the reasons that it is cheaper to produce overseas is that instead of putting administrative hurdles and taxes on mining, many governments subsidize it. Overseas, hardrock mining is growing; in the United States employment in the industry has been cut in half in the past few decades. According to the General Accounting Office, the average tax rate for the mining industry is 35 percent. By way of contrast, the transportation industry pays an average of 33 percent, the automobile industry pays an average of 23 percent, and the chemical industry pays an average of 19 percent.

The question our colleagues need to ask themselves is could the Government do a better job of mining? Buried, the minerals are worth nothing. If a business extracts them, the Government confiscates 35 percent of the profits, which are often razor-thin once expenses are subtracted, and which often do not even exist. We do not believe the Government would do a better job. We are convinced that typical bureaucratic inefficiencies would result, and mining would be a net drain on the Treasury if it existed at all. This industry, which contributes \$134 billion to the economy each year and which employs more than 100,000 people in some of the few good wage jobs left in America would be wiped out.

We went into the above issues by way of background and because proponents of the Bumpers amendment have again raised their old charge that the United States "gives" away billions of dollars worth of minerals. The particular question raised by the Bumpers amendment is whether mines on public lands should be allowed to have a depletion allowance. Congress first enacted a depletion allowance in 1913 for mining in general, based on the principle that oil, coal, hardrock mining, and similar companies are ongoing concerns. When the minerals being extracted by a company at one site are depleted, capital expenditures must be made to start a new site or the company must go out of business. The depletion allowance is given as resources are depleted so companies can raise the capital to find new resources. This allowance is especially important for hardrock mining because of the huge capital expenses involved. Our colleague's proposal is to do away with this allowance for hardrock mines on public lands. The practical effect of so doing will be to raise their taxes to 42 percent, which will make them that much less competitive with mines on private and State lands, and mines overseas. It will supposedly raise \$700 million, but that amount is based on the assumption that businesses will be willing to pay that high a tax rate. We very much doubt they will. The real effect will be to wipe out tens of thousands of jobs, hastening the demise of this already declining domestic industry.

We hope someday that the relentless war against the mining industry in the United States will stop. The United States should not destroy its own industrial base, especially considering that many of the materials being collected are of strategic importance. We agree that some reforms are necessary, and Congress has approved reforms. Unfortunately, the Clinton Administration has vetoed them in favor of its proposals, which we believe are deliberately punitive and designed to destroy the industry. The Bumpers amendment is also punitive. We urge its rejection.